

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35467

STATE OF IDAHO,)	2009 Unpublished Opinion No. 441
)	
Plaintiff-Respondent,)	Filed: April 30, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
DAVID E. COLLINS,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Gordon W. Petrie, District Judge.

Amended judgment and commitment of the district court reducing sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

David E. Collins was found guilty of grand theft. Idaho Code §§ 18-2403(1), 18-2407(1)(b). The district court sentenced Collins to a unified term of ten years with three years determinate. Collins filed an Idaho Criminal Rule 35 motion, which the district court granted, reducing his sentence to a unified term of ten years with two years determinate. Collins appeals, asserting that the district court abused its discretion by failing to further reduce his sentence.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of

new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Collins's Rule 35 motion, we conclude that the district court did not abuse its discretion by failing to further reduce Collins's sentence. The district court's amended judgment and commitment is affirmed.